

1 **UNITED STATES DISTRICT COURT**
2 **DISTRICT OF NEVADA**

3 TYRONE NOEL NUNN,

Case No.: 3:23-cv-00600-ART -CSD

4 Plaintiff

Order

5 v.

6 PIZZA HUT,

7 Defendant

8 Plaintiff is an inmate in the custody of the Nevada Department of Corrections, and he
9 has filed a pro se complaint. (ECF No. 1-1.)

10 The Local Rules of Practice for the District of Nevada provide: “Any person who is
11 unable to prepay the fees in a civil case may apply to the court for authority to proceed *in forma*
12 *pauperis* (IFP). The application must be made on the form provided by the court and must
13 include a financial affidavit disclosing the applicant’s income, assets, and liabilities.” LSR 1-1.
14 When a prisoner seeks to proceed without prepaying the filing fee, in addition to filing the
15 affidavit, the prisoner is required to submit a certified copy of the trust fund account statement
16 (or institutional equivalent) for the six-month period immediately preceding the filing of the
17 complaint. The statement must be obtained from the appropriate official at the prison or
18 detention facility where the prisoner is or was confined. 28 U.S.C. § 1915(a)(2).

19 When a prisoner brings a civil action IFP, the prisoner is still required to pay the full
20 amount of the filing fee. The court is required to assess, and when funds exist, collect an initial
21 partial payment of 20 percent of the greater of: (A) the average monthly deposits in the
22 prisoner’s account or (B) the average monthly balance in the prisoner’s account for the six-
23 month period immediately preceding the filing of the complaint. Thereafter, whenever the

1 prisoner's account exceeds \$10, the prisoner must make monthly payments of 20 percent of the
2 preceding month's income credited to the prisoners account until the filing fees are paid. The
3 funds are to be forwarded by the agency having custody of the prisoner. 28 U.S.C. § 1915(b)(1),
4 (2).

5 For actions filed before December 1, 2023, the filing fee is \$402 (the \$350 filing fee and
6 \$52 administrative fee). If an inmate does not qualify for IFP status, he must pay the full \$402
7 filing fee. If the inmate qualifies for IFP status, the \$52 administrative fee is waived, and the
8 inmate will only pay the \$350 filing fee over time.

9 Plaintiff has not submitted an application to proceed IFP for an inmate with the required
10 documentation or paid the \$402 filing fee.

11 CONCLUSION

12 The Clerk shall **SEND** Plaintiff a copy of the instructions and application to proceed IFP
13 for an inmate. Plaintiff has **30 days** from the date of this Order to either file his completed IFP
14 application or pay the full \$402 filing fee. If he files an IFP application, it must be accompanied
15 by all of the required documents, including:

16 (a) the completed **application to proceed IFP for an inmate** on the court's
17 approved form (i.e., pages 1-3 with the inmate's two signatures on page 3);

18 (b) a **financial certificate** properly signed by both the inmate and a prison or jail
19 official (i.e., page 4 of the court's approved form); and

20 (c) a copy of the inmate's prison or jail **trust fund account statement for the**
21 **previous six month period.**

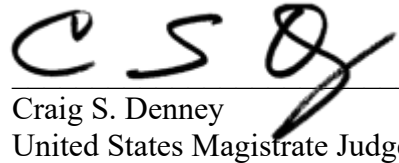
22 Once Plaintiff has filed his completed IFP application and financial certificate or paid the
23 filing fee, the court will screen the complaint pursuant to 28 U.S.C. § 1915(e)(2)(B) or 28 U.S.C.

1 § 1915A, or both. Both require dismissal of a complaint, or any portion thereof, that is frivolous
2 or malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief
3 against a defendant who is immune from such relief. If the complaint is dismissed on screening,
4 there will be no refund of the filing fee, and an inmate proceeding IFP is still required to pay the
5 \$350 filing fee over time.

6 If Plaintiff fails to timely file a completed IFP application and required documents or pay
7 the filing fee, the court will recommend dismissal of this action without prejudice.

8 **IT IS SO ORDERED.**

9 Dated: December 7, 2023

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11 Craig S. Denney
12 United States Magistrate Judge
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